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SUBJECT: AEC PLENARY EXPOSES WEAKENED COMMISSION

¶1. (U) SUMMARY: On February 6, the Assessment and Evaluation Commission (AEC) held its 28th plenary session, a meeting consumed with deliberating the terms of reference (TORs) for the mid-term evaluation of the Comprehensive Peace Agreement (CPA). The SPLM supported the use of outside consultants for drafting this document, while the NCP stated that the AEC should only hire subject matter experts for outstanding issues. The acting Chairman delayed resolution on this, saying that the TORS should be taken "as a starting place" which will be amended and formally adopted in the March plenary. END SUMMARY.

CHAIRMAN'S REPORT

¶2. (U) As is customary, the plenary session began with a report by the acting AEC Chairman, Fridtjof Thorkildsen, covering the period from January 9 to February 5. The Chairman presented a generally positive report, commending the SPLA and SAF's redeployment efforts, thanking the U.S. for its contribution for the AEC's new facility in Juba, and stating that the relationship between the SPLM and NCP "has moved towards normalization." The Chairman urged the parties to accept a new AEC chairman as soon as possible and also to consider allowing UNMIS observer status at the Joint Defense Board. (Note: The agenda for the February 5 plenary, the Chairman's report, and the draft terms of reference have all been sent to AF/SPG. End Note.)

¶3. (U) Following the chairman's report, the parties commented that they supported UNMIS participation in the joint defense board, but wanted more information regarding their exact status as observers. The Chairman requested that the UN representative submit a written request to the AEC with respect to this. The parties also stated that they are in favor of holding more AEC meetings in Juba. As this would require substantial planning and expense, they agreed that a meeting in Juba should be a more general orientation and longer than the normal two hours allotted to the plenary sessions. The SPLM stated that this would be particularly beneficial to their party as some of their representatives to the AEC are based in Juba.

UPDATE FROM THE PARTIES

¶4. (U) The parties provided an update on their latest work in the newly-formed political executive committee established after the return of the SPLM to the Government of National Unity (GNU). Muhammad Mukhtar Al-Hassan, representing the NCP, highlighted the committee's work on redeployment from the 1956 border, progress on the elections law, and planning for the census. He stated that the next meeting of the committee will be on February 11. Kostis Manibe, representing the SPLM, agreed that progress has been made in these areas and that the committee is "slowly moving forward, even if it is behind schedule." Sayed El-Khatib of the NCP added that in the future it would be best if the Working Group coordinators, and not the parties, gave updates on the status of CPA implementation. (Comment: This would be difficult to achieve, as there are no

international observers at the joint political committee established by the presidency. End Note).

TERMS OF REFERENCE

15. (U) The parties used the remainder of the plenary to debate the terms of reference for the mid-term evaluation of the Comprehensive Peace Agreement. The SPLM stated that outside consultants are necessary because: the AEC secretariat currently lacks expertise and support staff; drafting the report will require extensive time and energy for both the parties and coordinators; and the deadline of January 9 is quickly approaching. The SPLM also stated that the consultant would work within the secretariat, be directed and controlled by it, and only provide the first draft for the report, which would later have to be agreed upon by the NCP and SPLM. The NCP disagreed, stating that outside consultants should not replace or "sideline" the AEC, and they should be used only when there is disagreement or a lack of expertise on a particular matter. The NCP stated "the AEC should be in charge from day one and it should be written word-for-word with full involvement of the AEC." CDA Fernandez stated that the resignation of former Chairman Tom Vraalsen, the loss of the AEC's support staff, and continued deliberation has created a hemorrhage which could impede important work such as the mid-term evaluation. He said continued deliberation over appointing a new chairman will hamper the work of the AEC. He added that outside consultants would not replace the AEC but would provide "intellectual manual labor" for the AEC secretariat.

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16. (U) The Norwegian Ambassador ended the deliberation stating that that the working groups first need to define what experts are necessary for their groups. He also suggested the formation of a steering committee of representatives for the drafting of the MTE from the AEC secretariat, the four working group coordinators, and the SPLM and NCP representatives. He said that the AEC should consider using three types of consultants: 1) Expert consultants on specific areas used for short term assignments; 2) Consultants for drafting the Mid Term Evaluation; 3) Consultants seconded to the AEC secretariat. [Note: Thorkildsen stated that the AEC will soon receive another German legal advisor to replace the former advisor who departed Khartoum in December 2007. End Note.] The NCP responded to the chairman's suggestions saying, "We accept the TORS, but we would like to add to them to make them more general. There needs to be more emphasis on practical points as this will save us headaches in the future." Khatib also stated that the Government of National Unity is required to make funds available to the AEC for its functioning. He suggested that funds could be attained from the GNU for experts. Thorkildsen concluded that the AEC will work with the current TORS as a starting point and formally accept a revised edition of the terms of reference at a later date.

17. (U) Minutes from the AEC plenary will be forwarded to AF/SPG as soon as they are received from the AEC. [Note: Typical functions of the AEC have slowed noticeably since December 2007. End Note.]

COMMENT

18. (SBU) The NCP's assertion that the AEC mid-term evaluation should be produced by a drafting committee is unrealistic, as experience working for two years on the CPA factual report clearly demonstrated. [Note: Taking over 9 months to draft and described by one working group coordinator "as a very painful process," the factual report was plagued by unnecessary delays, often uncooperative parties, and occasional outward hostility between the parties. End Note.] The question of hiring an outside consultant has not been resolved for the mid-term evaluation. If there is to be a primary drafter, this individual or team of experts needs to be identified as soon as possible as the original terms of reference scheduled the submission of the first draft of the mid-term report for April 15. If the terms of reference are formally adopted at the next plenary in March, this will leave only one month to hire a primary drafter and write the report.

19. (SBU) With its administration gutted, three canceled working group meetings in February alone, delays in appointing a new chairman, and another institution (the newly-formed NCP-SPLM

political executive committee) serving as the primary venue for NCP-SPLM dialogue, this plenary session exposed a debilitated AEC. The SPLM representatives appeared tentative and complacent, perhaps afraid to rock the boat after just returning to the GNU. Meanwhile, the NCP was at its best, obsessing over minutiae, dragging out the process unnecessarily, putting form over substance, and appearing to be amicable while firmly standing its ground.

FERNANDEZ